



Congress of the United States
House of Representatives

September 11, 2003

Mr. Bryant L. VanBrakle
Secretary
Federal Maritime Commission
800 North Capitol Street, NW
Washington, DC 20573

RE: Petition P3-03

Dear Secretary VanBrakle:

It is my understanding that UPS has filed for an exemption from the prohibition on Non-Vessel Operating Common Carriers (NVOCCs) from entering into confidential contracts with their customers. Because of the operational characteristics of United Parcel Service (UPS) and recent developments within the ocean-shipping marketplace, the antiquated regulatory scheme governing NVOCCs should be revised. I am writing in strong support of UPS' petition presently pending before the Federal Maritime Commission (FMC).

During consideration of the *Ocean Shipping Reform Act* (OSRA) revisions of 1998, Congress carefully considered all aspects of the ocean shipping industry including the role of NVOCCs. Based on the nature of ocean shipping at the time, Congress determined that NVOCCs should be regulated differently than vessel operators. In the late 1990s, most NVOCCs were small enterprises that neither owned vessels nor the cargo being shipped. In order to protect shippers and to guarantee liability coverage, Congress determined that NVOCCs should operate under a published tariff system when dealing with their customers.

However, the staff of the US ocean shipping industry has changed dramatically since the passage of OSRA. There has been unprecedented consolidation among ocean carriers resulting in the loss of major US flagged carriers. In an effort to offer customers a full range of services, these very same carriers have created vertically integrated logistics companies that now compete with NVOCCs.

UPS operates the most sophisticated, integrated, intermodal transportation network in the world, which includes air, rail and surface and NVOCC transportation, and is deemed a "carrier" in the surface and air freight industries. Furthermore, UPS makes significant annual capital investments to its asset-based transportation infrastructure. These facts

ORIGINAL

CC: 020/b30

10
20
30
40
01
02
03
04
05
082

504 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-6030

300 EAST WASHINGTON STREET
GREENVILLE, SC 29601
(864) 232-1141

145 NORTH CHURCH STREET
BTC #56, SUITE 302
SPARTANBURG, SC 29306
(864) 582-6422

UNION, SC
(864) 427-2205

RECEIVED
03 SEP 17 AM 10:29
FEDERAL MARITIME COMMISSION

JIM DeMINT

4TH DISTRICT, SOUTH CAROLINA

www.demint.house.gov

TRANSPORTATION AND
INFRASTRUCTURE

EDUCATION AND THE
WORKFORCE

SMALL BUSINESS

CHAIRMAN
SUBCOMMITTEE ON WORKFORCE
EMPOWERMENT AND GOVERNMENT
PROGRAMS



Congress of the United States
House of Representatives

504 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-6030

300 EAST WASHINGTON STREET
GREENVILLE, SC 29601
(864) 232-1141

145 NORTH CHURCH STREET
BTC #56, SUITE 302
SPARTANBURG, SC 29306
(864) 582-6422

UNION, SC
(864) 427-2205

alone set UPS apart from the companies that first raised concerns about the regulatory status of NVOCCs.

The UPS petition, citing the recent evolution of the ocean shipping marketplace, is precisely the reason Congress granted such broad exemption authority to the FMC. While anticipating dramatic changes in the ocean shipping industry with the passage of OSRA, Congress did not contemplate how fast or how smoothly the market could adapt to these changes. By granting this petition, the FMC will acknowledge these changes, level the playing field between NVOCCs and vessel operators and ultimately benefit ocean shipping consumers around the world.

I am hopeful the FMC will give the UPS petition its utmost consideration and render an equitable decision based upon the merits of the UPS case.

Sincerely,


Jim DeMint
Member of Congress